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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,268	08/27/2003	Eric Patience	EXP-0001-US	5207

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EXAMINER

PRICE, CARL D

ART UNIT	PAPER NUMBER
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3749

DATE MAILED: 01/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	10/648,268	PATIENCE, ERIC	
	Examiner	Art Unit	
	CARL D. PRICE	3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/27/03, 8/23/04, 11/10/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 36-46 is/are pending in the application.
- 4a) Of the above claim(s) 1-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 36-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 0827/03 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>08/27/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 17-35 were cancelled in the amendment filed on 08/27/2003.

New claims 36-46 were added in the amendment filed on 08/23/2004.

Election/Restrictions

Applicant's election without traverse of the specie appearing in figures 15-17, claims 36-46, in the reply filed on 08/23/2004 is acknowledged.

Claims 1- 16 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected specie, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 08/23/2004.

Specification

The disclosure is objected to because of the following informalities:

The information referencing related applications appearing in the first paragraph of the specification must be updated.

Appropriate correction is required.

Claim Objections

Claims 36-46 are objected to because of the following informalities:

While the body of claim 1, for example, does recite the "ignition containment housing *being suspendable from the grill device*", and wherein at least one door portion is arranged in conjunction with at least two of grill sides so as to form an enclosure, the preamble of the claim

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characterizes the invention only as a "A reconfigurable fuel lighting device *attachable* to a grill device". In this regard the content of the preamble is inconsistent with the arrangement of elements recited in the body of the claim. For the purpose of examination the claims are understood to encompass the combination of a "*reconfigurable fuel lighting device*" which is "*suspendable*" from a grill device, "*wherein in a first one of the at least two positions, the at least one door portion is arranged in conjunction with at least two of the grill sides so as to form an enclosure the enclosure including the rack, such that fuel is placeable within the enclosure above the rack and above the ignition containment housing*".

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 36-46: Rejected under 35 U.S.C. 102(b)

Claims 36-46 are rejected under 35 U.S.C. 102(b) as being anticipated by US003018771 (CURTIS).

US003018771 (CURTIS) shows fuel lighting device (65) attachable to a grill device, the fuel lighting device including:

- an ignition containment housing (65) having at least three sides and a bottom, the ignition containment housing being suspendable from the grill device, the grill device having at least three grill sides (11, 13, 51) and a grill bottom (63);
- a rack (61) for holding fuel, the rack being positionable above the ignition containment housing;
- two pivotally attached door portions (101), attached to the side portions (51) by hinge pins (103) the at least one door portion being arrangeable into at least two positions;
- the ignition containment housing includes an opening (71) for permitting ignition;
- wherein in a first one of the at least two positions, the at least one door portion is arranged in conjunction with at least two of the grill sides so as to form an enclosure the enclosure including the rack (see column 4, lines 39-59), such that fuel is placeable within the enclosure above the rack and above the ignition containment housing.

Conclusion

See the attached PTO FORM for prior art made of record that is not relied upon, which is considered pertinent to applicant's disclosure.

USPTO Customer Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Carl D. Price** whose telephone number is **(571) 272 -4880**. The examiner can normally be reached on Monday through Friday, between the hours of **6:30 am** and **3:30 pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Ira Lazarus** can be reached on **(703) 308-1935**. The fax phone number for the organization where this application or proceeding is assigned is **703-872-9306**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (**PAIR**) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866-217-9197** (toll-free).



Carl D. Price
Primary Examiner
Art Unit 3749